

REMARKS

Applicants' counsel thanks Examiner Vo for her very careful examination of the present application. The undersigned also wishes to thank the Examiner for her patience and courtesy during the telephone interview conducted this date.

Claim 1 has been rejected under 35 USC § 102(e) as being anticipated by Ewing, and also under 35 USC §§ 102(e)/103(a) as being either anticipated or obvious over DuDonis.

During the interview, independent claim 1 was discussed in view of these references. Specifically, applicant's counsel proposed amending claim 1 to specify that the skin in that claim is "flexible," to clearly distinguish the rigid helmet shell in Ewing, which the Examiner has equated to the claimed "skin." Claim 1 above has now been amended to specify the skin is "flexible." As amended, claim 1 now clearly distinguishes the helmet shell in Ewing, which the Examiner herself has acknowledged is rigid:

Ewing teaches a protective helmet comprising a rigid outer shell.... The first [goam] layer adjacent to the rigid outer shell is Confor 40 foam.... * * * Ewing does not specifically disclose how a rigid outer shell is attached to a foam substrate.

See Office action, pp. 3-4 (emphasis supplied).

Also during the interview, applicant's counsel proposed additional limitations to more clearly distinguish the claim from DuDonis, which is directed to a heel elevator support designed to elevate the feet of one confined to a bed while at the same time relieving pressure ulcers (bed sores) on the heels or feet. Claim 1 has now been amended to specify that the plurality of vent holes are provided in a protective zone of the skin, and that "said flexible skin [is] a barrier to exhaustion of gas pressure from within said foam substrate to the ambient atmosphere on impact of said foam substrate, said plurality of vent holes being effective to regulate the local rigidity of said protective layer by permitting gas to escape at said protective zone at a rate that is dependent on the number and size of said vent holes through said flexible skin in said protective zone." This language has basis in paragraphs [0023] and [0028] of the specification, and explains how the plurality of holes in the protective zone are effective to regulate the local rigidity of the foam substrate in the vicinity of the protective zone. This structure is nowhere disclosed or remotely suggested in DuDonis. The holes

192/392, 194/394 in the support cover 190/390 in DuDonis, cited by the Examiner, are provided in the cover 190/390 as a means to permit compression of the entire cushion for packaging and shipment. That is, it is desirable to reduce the volume of the large heel support foam cushions during shipment, preferably to a volume of not more than 15% of the freely expanded volume, so that the cushion can be easily shipped and stored. Once the cushion is to be used, it is permitted to expand from this compressed state, where it stays in use. See col. 11, lns. 23-54, which describe this in detail. Only one right and one left such hole are described or illustrated in DuDonis, whose dimensions are not specified. There is no protective zone in DuDonis that comprises a *plurality* of openings whose number and density are effective to regulate the local rigidity of the underlying foam cushion. Accordingly, claim 1 is not anticipated by DuDonis.

Nor does that reference render claim 1 obvious, because there is no reason or motivation from DuDonis to regulate the rigidity of the heel support cushion therein, using a plurality of vent holes in a protective zone based on the number and density of the holes. The heel support cushion in DuDonis remains on a bed and supports the stationary legs and feet of someone in the bed, to keep the legs elevated and the heels off of the bed. See, e.g., whole BACKGROUND section, as well as the rest of DuDonis, including Figs. 2-3. **No dynamic impacts, or protection from such impacts, is contemplated in DuDonis.** Once the legs are placed on the heel support cushion, they come to rest on that cushion and are stationary. The cushion does not shield them from any impacts, and there is no reason to even consider adjusting the relative rigidity of the foam. At least for this reason, the two vent holes located at opposite sides of the foam cushion in DuDonis do not make obvious or suggest providing a protective zone having a *plurality of vent holes* in the protective zone to regulate the relative rigidity of the foam. There simply is no such protective zone in DuDonis, nor any reason to incorporate one. A heel support cushion to elevate one's stationary legs in a bed would have no need or use for such a protective zone.

Accordingly, the rejection of claim 1 over DuDonis is also overcome.

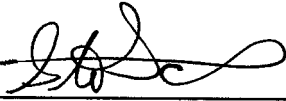
All remaining claims are dependent claims, and accordingly are believed to be allowable by virtue of their dependence on an allowable base claim.

Should the Examiner have any questions or reservations with respect to the arguments contained in the present submission, she is invited to please contact the undersigned attorney at the phone number provided below.

If any additional fees are required by this communication, which are not mentioned above, please charge the same to our Deposit Account No. 16-0820, Order No. 34563US1.

Respectfully submitted,

PEARNE & GORDON LLP

By: 
Steven J. Solomon, Reg. No. 48719

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: April 4, 2007